

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )  
 )  
Amendment of Section 73.202(b), ) MB Docket No. 03-12  
Table of Allotments, ) RM-10627  
FM Broadcast Stations. )  
(Charles Town, West Virginia and Stephens )  
City, Virginia) )

**REPORT AND ORDER**  
**(Proceeding Terminated)**

**Adopted: October 22, 2003**

**Released: October 24, 2003**

By the Assistant Chief, Audio Division

1 The Audio Division has before it the *Notice of Proposed Rule Making* ("Notice")<sup>1</sup> issued in response to a petition for rule making filed by Cleveland Radio Licenses, LLC ("Petitioner"), licensee of Station WXVA-FM, Channel 252A, Charles Town, West Virginia. Petitioner requests the reallocation of Channel 252A to Stephens City, Virginia, as that community's first local aural transmission service, and the modification of Station WXVA-FM's license to specify Stephens City as its community of license. Petitioner filed comments reaffirming its proposal and reiterating its intent to implement its proposal if the Commission reallocates Channel 252A to Stephens City. No other party filed comments or any other pleading in this proceeding. For the reasons stated below, we grant Petitioner's request to change its community of license to Stephens City.

2 Petitioner filed its request to reallocate Channel 252A to Stephens City, Virginia, pursuant to the provisions of Section 1.420(i) of the Commission's Rules, which permits the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest.<sup>2</sup>

3 We believe that the public interest would be served by reallocating Channel 252A from Charles Town, West Virginia to Stephens City, Virginia, because Stephens City would receive its first local aural transmission service. The reallocation of Channel 252A to Stephens City would not deprive Charles Town of its sole local aural transmission outlet because Charles Town would continue to be served by AM Station WMRE. Station WXVA-FM is presently operating as a 3 kilowatt facility at Charles Town, and it would operate as a 6 kilowatt facility when reallocated to Stephens City, Virginia. Petitioner's reallocation proposal would result in a net gain of 18,406 people and 674 square kilometers in area served. The loss area would be completely covered by at least five other full-time services and thus would be well served. Therefore, in accordance with the provisions of Section 1.420(i) of the Commission's Rules, we will modify the license of Station WXVA-FM to specify operation on Channel 252A at Stephens City, Virginia.

<sup>1</sup> *Charlestown, West Virginia and Stephens City, Virginia*, 18 FCC Rcd 449 (2003).

<sup>2</sup> See *Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990).

4 Channel 252A can be allotted to Stephens City, Virginia, in conformity with the technical requirements of the Commission's Rules, utilizing Petitioner's requested site at the coordinates of 39-07-30 North Latitude and 78-04-26 West Longitude, with a site restriction of 13.3 kilometers (8.3 miles) east of Stephens City, Virginia.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective December 8, 2003, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, as follows:

<u>Community</u>	<u>Channel Number</u>
Charles Town, <u>West Virginia</u>	-----
Stephens City, Virginia	252A

6 IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Cleveland Radio Licenses, LLC for Station WXVA-FM, Charles Town, West Virginia, IS MODIFIED to specify operation on Channel 252A at Stephens City, Virginia, subject to the following conditions:

(a) Within 90 days of the effective date of this *Order*, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's Rules.

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

7. Pursuant to Commission Rule Section 1.1104(3)(i), any party seeking a change of community of license of an FM allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Cleveland Radio Licenses, LLC, licensee of Station WXVA-FM, is required to submit a rule making fee in addition to the fee required for the application to effect the change in community of license.

8 IT IS FURTHER ORDERED That this proceeding IS TERMINATED.

9 For further information concerning the above, contact R. Barthen Gorman, Media Bureau,  
(202) 418-2180

**FEDERAL COMMUNICATIONS COMMISSION**

John A. Karousos  
Assistant Chief, Audio Division  
Media Bureau